

109TH CONGRESS  
2D SESSION

# S. 2326

To provide for immigration reform, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 17, 2006

Mr. DOMENICI introduced the following bill; which was read twice and referred  
to the Committee on the Judiciary

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## A BILL

To provide for immigration reform, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Welcoming Immigrants to a Secure Homeland Act of  
6 2006” or “WISH Act of 2006”.

7 (b) TABLE OF CONTENTS.—The table of contents for  
8 this Act is as follows:

Sec. 1. Short title; table of contents.

### TITLE I—IMPROVING ENFORCEMENT

Subtitle A—Increased Enforcement Resources and Penalties

Sec. 101. Additional worksite enforcement and fraud detection agents.

- Sec. 102. Penalties for unauthorized employment and false claims of citizenship.
- Sec. 103. Penalties for misusing social security numbers or filing false information with the Social Security Administration.

#### Subtitle B—Information Integrity and Security

- Sec. 111. Social security cards.
- Sec. 112. Electronic information.

#### Subtitle C—Mandatory Electronic Employment Verification of All Workers in the United States

- Sec. 121. Employment eligibility verification system.
- Sec. 122. Good faith compliance.

### TITLE II—NONIMMIGRANT GUEST WORKERS

- Sec. 201. Nonimmigrant guest worker category.
- Sec. 202. Guest worker program.
- Sec. 203. Special rule for Mexico.
- Sec. 204. Statutory construction.
- Sec. 205. Authorization of appropriations.

### TITLE III—NONIMMIGRANT GUEST WORKER STATUS FOR UNAUTHORIZED ALIENS

- Sec. 301. Nonimmigrant guest worker status for unauthorized aliens.
- Sec. 302. Statutory construction.
- Sec. 303. Authorization of appropriations.

### TITLE IV—EMPLOYMENT MANAGEMENT SYSTEM

- Sec. 401. Employment management system.
- Sec. 402. Labor investigations and penalties.

### TITLE V—PROTECTION AGAINST IMMIGRATION FRAUD

- Sec. 501. Grants to support public education and training.

### TITLE VI—HIGHLY EDUCATED AND SKILLED WORKERS

- Sec. 601. Removal of numerical limitations for nonimmigrants with advanced degrees.
- Sec. 602. Aliens not subject to numerical limitations on employment-based immigrants.
- Sec. 603. Off-campus work authorization for foreign students.
- Sec. 604. Temporary visas for graduating students.
- Sec. 605. Travel authorization.
- Sec. 606. Additional employees and technologies.

### TITLE VII—TRAVEL RESTRICTIONS FOR TEMPORARY VISITORS

- Sec. 701. Travel restrictions.

### TITLE VIII—TEMPORARY AGRICULTURAL WORKERS

- Sec. 801. Sense of the Senate on temporary agricultural workers.

1                   **TITLE I—IMPROVING**  
2                   **ENFORCEMENT**  
3       **Subtitle A—Increased Enforcement**  
4                   **Resources and Penalties**

5       **SEC. 101. ADDITIONAL WORKSITE ENFORCEMENT AND**  
6                   **FRAUD DETECTION AGENTS.**

7           (a) WORKSITE ENFORCEMENT.—During each of fis-  
8 cal years 2007 through 2011, the Secretary of Homeland  
9 Security shall, subject to the availability of appropriations  
10 for such purpose, increase by not less than 2,000 the num-  
11 ber of positions for investigators dedicated to enforcing  
12 compliance with sections 274 and 274A of the Immigra-  
13 tion and Nationality Act (8 U.S.C. 1324 and 1324a) for  
14 such fiscal year.

15          (b) FRAUD DETECTION.—During each of fiscal years  
16 2007 through 2011, the Secretary of Homeland Security  
17 shall, subject to the availability of appropriations for such  
18 purpose, increase by not less than 1,000 the number of  
19 positions for Immigration Enforcement Agents dedicated  
20 to immigration fraud detection for such fiscal year.

21          (c) AUTHORIZATION OF APPROPRIATIONS.—There  
22 are authorized to be appropriated for each of fiscal years  
23 2007 through 2011 such sums as may be necessary to  
24 carry out this section.

1 **SEC. 102. PENALTIES FOR UNAUTHORIZED EMPLOYMENT**  
2 **AND FALSE CLAIMS OF CITIZENSHIP.**

3 Section 274A of the Immigration and Nationality Act  
4 (8 U.S.C. 1324a) is amended—

5 (1) in paragraphs (1)(A), (2), and (4) of sub-  
6 section (a), by striking “knowing” each place it ap-  
7 pears and inserting “if the person or entity knows  
8 or should have known”;

9 (2) in subsection (b)(2)—

10 (A) by striking “The individual” and in-  
11 serting the following:

12 “(A) IN GENERAL.—The individual”; and

13 (B) by adding at the end the following:

14 “(B) PENALTIES.—Any individual who  
15 falsely represents that the individual is a citizen  
16 or national of the United States, an alien law-  
17 fully admitted for permanent residence, or an  
18 alien who is authorized by the Attorney General  
19 or by the Secretary of Homeland Security to be  
20 hired, recruited, or referred for such employ-  
21 ment for purposes of obtaining employment  
22 shall, for each such violation, be subject to a  
23 fine of not more than \$5,000 and a term of im-  
24 prisonment not to exceed 3 years.”; and

25 (3) in subsection (f)(1), by striking “\$3,000”  
26 and inserting “\$5,000”.

1 **SEC. 103. PENALTIES FOR MISUSING SOCIAL SECURITY**  
2 **NUMBERS OR FILING FALSE INFORMATION**  
3 **WITH THE SOCIAL SECURITY ADMINISTRA-**  
4 **TION.**

5 (a) MISUSE OF SOCIAL SECURITY NUMBERS.—

6 (1) IN GENERAL.—Section 208(a) of the Social  
7 Security Act (42 U.S.C. 408(a)) is amended—

8 (A) in paragraph (7), by adding after sub-  
9 paragraph (C) the following:

10 “(D) with intent to deceive, discloses, sells,  
11 or transfers his own social security account  
12 number, assigned to him by the Commissioner  
13 of Social Security (in the exercise of the Com-  
14 missioner’s authority under section 205(c)(2) to  
15 establish and maintain records), to any person;  
16 or;”;

17 (B) in paragraph (8), by adding “or” at  
18 the end; and

19 (C) by inserting after paragraph (8) the  
20 following:

21 “(9) without lawful authority, offers, for a fee,  
22 to acquire for any individual, or to assist in acquir-  
23 ing for any individual, an additional social security  
24 account number or a number that purports to be a  
25 Social Security account number;”.

1           (2) EFFECTIVE DATES.—Paragraphs (7)(D)  
 2           and (9) of section 208(a) of the Social Security Act,  
 3           as added by paragraph (1), shall apply with respect  
 4           to each violation occurring after the date of the en-  
 5           actment of this Act.

6           (b) REPORT ON ENFORCEMENT EFFORTS CON-  
 7           CERNING EMPLOYERS FILING FALSE INFORMATION RE-  
 8           TURNS.—The Commissioner of Internal Revenue and the  
 9           Commissioner of Social Security shall submit an annual  
 10          report to Congress on efforts taken to identify employers  
 11          that file incorrect information returns and impose appro-  
 12          priate penalties on such employers.

## 13       **Subtitle B—Information Integrity** 14                               **and Security**

### 15       **SEC. 111. SOCIAL SECURITY CARDS.**

16          (a) MACHINE-READABLE, TAMPER-RESISTANT  
 17          CARDS.—

18               (1) ISSUANCE.—

19                       (A) IN GENERAL.—Not later than 3  
 20                       months after the date of the enactment of this  
 21                       Act, the Commissioner of Social Security shall  
 22                       initiate a program to develop and issue ma-  
 23                       chine-readable, tamper-resistant social security  
 24                       cards.

(B) COMPLETION.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall—

(i) only issue machine-readable, tamper-resistant social security cards; and

(ii) begin a program to replace existing social security cards with machine-readable, tamper-resistant social security cards.

(2) AMENDMENT.—Section 205(c)(2)(G) of the Social Security Act (42 U.S.C. 405(c)(2)(G)) is amended—

(A) by inserting “(i)” after “(G)”; and

(B) by striking “The social security card shall be made of banknote paper,” and inserting the following:

“(ii) The social security card shall be machine-readable and tamper-resistant;”.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection and the amendments made by paragraph (2).

(b) MULTIPLE CARDS.—Section 205(c)(2)(G) of such Act, as amended by subsection (a)(2), is further amended by adding at the end the following:

1           “(iii) The Commissioner of Social Security  
 2           shall not issue a replacement social security  
 3           card to any individual unless the Commissioner  
 4           of Social Security determines that the purpose  
 5           for requiring the issuance of the replacement  
 6           document is legitimate.”.

7           (c) REPORT ON INCORPORATION OF BIOMETRIC  
 8 IDENTIFIERS.—Not later than 6 months after the date of  
 9 the enactment of this Act, the Commissioner of Social Se-  
 10 curity, in cooperation with the Secretary of Homeland Se-  
 11 curity, shall submit to Congress a report on the viability  
 12 of using biometric authentication with employment au-  
 13 thorization documents.

14          (d) EFFECTIVE DATE.—The amendments made by  
 15 subsections (a)(2) and (b) shall take effect 1 year after  
 16 the date of the enactment of this Act and shall only apply  
 17 to social security cards issued after such date.

18 **SEC. 112. ELECTRONIC INFORMATION.**

19          (a) CONFIDENTIALITY.—

20           (1) ACCESS TO DATABASE.—No officer or em-  
 21 ployee of any agency or department of the United  
 22 States, other than individuals responsible for the en-  
 23 forcement of immigration laws or for the evaluation  
 24 of an employment verification program at the Social  
 25 Security Administration, the Department of Home-



1 land Security, or the Department of Labor, may  
2 have access to any information contained in a data-  
3 base maintained pursuant to the Employment Eligi-  
4 bility Verification System described in section 403 of  
5 the Illegal Immigration Reform and Immigrant Re-  
6 sponsibility Act of 1996 (division C of Public Law  
7 104–208; 8 U.S.C. 1324a note), as amended by sec-  
8 tion 121 of this Act.

9 (2) PROTECTION FROM UNAUTHORIZED DIS-  
10 CLOSURE.—Information contained in a database  
11 maintained pursuant to the Employment Eligibility  
12 Verification System shall be adequately protected  
13 against unauthorized disclosure for other purposes,  
14 as provided in regulations established by the Com-  
15 missioner of Social Security, in consultation with the  
16 Secretary of Homeland Security and the Secretary  
17 of Labor.

18 (b) IMPROVEMENTS TO INFORMATION INTEGRITY.—

19 (1) IN GENERAL.—The Commissioner of Social  
20 Security shall identify the sources of false, incorrect,  
21 or expired Social Security numbers and take steps to  
22 eliminate such numbers from the Social Security  
23 system.

24 (2) REPORT.—Not later than 6 months after  
25 the date of the enactment of this Act, the Commis-

1 sioner of Social Security shall submit to Congress a  
 2 report that—

3 (A) identifies the sources of false, incor-  
 4 rect, or expired Social Security numbers;

5 (B) describes the actions carried out by the  
 6 Commissioner to identify and eliminate the  
 7 numbers described in paragraph (1); and

8 (C) describes the actions that the Commis-  
 9 sioner plans to take to ensure the removal of  
 10 the numbers described in paragraph (1) from  
 11 the Social Security system during the 1-year  
 12 period beginning on the date that the report is  
 13 submitted.

14 **Subtitle C—Mandatory Electronic**  
 15 **Employment Verification of All**  
 16 **Workers in the United States**

17 **SEC. 121. EMPLOYMENT ELIGIBILITY VERIFICATION SYS-**  
 18 **TEM.**

19 (a) RENAMING OF BASIC PILOT PROGRAM.—Subtitle  
 20 A of title IV of the Illegal Immigration Reform and Immi-  
 21 grant Responsibility Act of 1996 (division C of Public Law  
 22 104–208; 8 U.S.C. 1324a note) is amended—

23 (1) in section 401(c)(1), by striking “basic pilot  
 24 program” and inserting “Employment Eligibility  
 25 Verification System”; and

1           (2) in section 403(a), by striking “(a)” and all  
2           that follows through “agrees to conform” and insert  
3           the following:

4           “(a) EMPLOYMENT ELIGIBILITY VERIFICATION SYS-  
5   TEM.—A person or other entity that participates in the  
6   Employment Eligibility Verification System shall agree to  
7   conform”.

8           (b) MANDATORY PARTICIPATION.—

9           (1) LARGE EMPLOYERS.—Beginning not later  
10          than 2 years after the date of the enactment of this  
11          Act and notwithstanding any other provision of law,  
12          any person or other entity that hires 50 or more in-  
13          dividuals for employment in the United States shall  
14          participate in the Employment Eligibility  
15          Verification System described in section 403 of the  
16          Illegal Immigration Reform and Immigrant Respon-  
17          sibility Act, as amended by subsection (a).

18          (2) MIDSIZED EMPLOYERS.—Beginning not  
19          later than 4 years after the date of the enactment  
20          of this Act and notwithstanding any other provision  
21          of law, any person or other entity that hires 25 or  
22          more individuals for employment in the United  
23          States shall participate in such Employment Eligi-  
24          bility Verification System.

1           (3) SMALL EMPLOYERS.—Beginning not later  
2           than 6 years after the date of the enactment of this  
3           Act and notwithstanding any other provision of law,  
4           any person or other entity that hires 1 or more indi-  
5           viduals for employment in the United States shall  
6           participate in such Employment Eligibility  
7           Verification System.

8           (4) PARTICIPATION OF EMPLOYERS NOT SUB-  
9           JECT TO REQUIREMENT.—Nothing in this subsection  
10          shall be construed to prevent any person or other en-  
11          tity that is not required to participate in such Em-  
12          ployment Eligibility Verification System under this  
13          subsection from voluntarily participating in such  
14          Employment Eligibility Verification System.

15          (5) CONFORMING AMENDMENT.—Section  
16          402(a) of the Illegal Immigration Reform and Immi-  
17          grant Responsibility Act of 1996 (division C of Pub-  
18          lic Law 104–208; 8 U.S.C. 1324a note) is amended  
19          in the second sentence by striking the comma after  
20          “(e)” and inserting “or section 121(b) of the Wel-  
21          coming Immigrants to a Secure Homeland Act of  
22          2006,”.

23          (c) AFFORDABILITY OF SYSTEM.—The Secretary of  
24          Homeland Security shall work in cooperation with the Sec-  
25          retary of Labor and the Commissioner of Social Security

1 to make such Employment Eligibility Verification System  
2 affordable to any person or entity that hires individuals  
3 for employment in the United States.

4 (d) ELECTRONIC FILING.—Any employer partici-  
5 pating in such Employment Eligibility Verification System  
6 may complete and allow for newly hired individuals to  
7 complete employment verification documents electroni-  
8 cally.

9 (e) REPORT ON IMPROVEMENT OF EMPLOYMENT  
10 ELIGIBILITY VERIFICATION SYSTEM.—Not later than 1  
11 year after the date of the enactment of this Act, the Sec-  
12 retary of Homeland Security, in cooperation with the Sec-  
13 retary of Labor and the Commissioner of Social Security,  
14 shall submit to Congress a report on ways to improve such  
15 Employment Eligibility Verification System.

16 (f) AUTHORIZATION OF APPROPRIATIONS.—There  
17 are authorized to be appropriated such sums as may be  
18 required to carry out such Employment Eligibility  
19 Verification System in every State and to allow every em-  
20 ployer in the United States to participate.

21 **SEC. 122. GOOD FAITH COMPLIANCE.**

22 Any employer that complies with the requirements of  
23 this subtitle, the amendments made by this subtitle, and  
24 title IV of the Illegal Immigration Reform and Immigrant  
25 Responsibility Act of 1996 (8 U.S.C. 1324a note) has es-

1 tablished an affirmative defense that the employer has not  
 2 violated the employment verification requirements under  
 3 section 274A of the Immigration and Nationality Act (8  
 4 U.S.C. 1324a).

## 5 **TITLE II—NONIMMIGRANT** 6 **GUEST WORKERS**

### 7 **SEC. 201. NONIMMIGRANT GUEST WORKER CATEGORY.**

8 (a) NEW GUEST WORKER CATEGORY.—Section  
 9 101(a)(15) of the Immigration and Nationality Act (8  
 10 U.S.C. 1101(a)(15)) is amended by adding at the end the  
 11 following:

12 “(W) an alien having a residence in a for-  
 13 eign country who is coming to the United  
 14 States to perform labor or service and who  
 15 meets the requirements of section 218A.”.

16 (b) TECHNICAL AMENDMENTS.—Section 101(a)(15)  
 17 of the Immigration and Nationality Act (8 U.S.C.  
 18 1101(a)(15)) is amended—

19 (1) in subparagraph (U)(iii), by striking “or”  
 20 at the end; and

21 (2) in subparagraph (V)(ii)(II), by striking the  
 22 period at the end and inserting a semicolon and  
 23 “or”.

1 **SEC. 202. GUEST WORKER PROGRAM.**

2 (a) IN GENERAL.—Chapter 2 of title II of the Immi-  
3 gration and Nationality Act (8 U.S.C. 1101 et seq.) is  
4 amended by inserting after section 218 the following new  
5 section:

6 **“SEC. 218A. GUEST WORKER PROGRAM.**

7 “(a) IN GENERAL.—The Secretary of Homeland Se-  
8 curity may grant a temporary visa to a nonimmigrant de-  
9 scribed in section 101(a)(15)(W) who demonstrates an in-  
10 tent to perform labor or services in the United States and  
11 who meets the requirements of this section.

12 “(b) REQUIREMENTS FOR ADMISSION.—In order to  
13 be eligible for nonimmigrant status under section  
14 101(a)(15)(W), an alien shall meet the following require-  
15 ments:

16 “(1) ELIGIBILITY TO WORK.—The alien shall  
17 establish that the alien is capable of performing the  
18 labor or services required for an occupation under  
19 section 101(a)(15)(W).

20 “(2) EVIDENCE OF EMPLOYMENT.—The alien  
21 shall establish that the alien has a job offer from an  
22 employer that utilizes the Employment Management  
23 System described in section 218C.

24 “(3) APPLICATION FEE.—The alien shall pay a  
25 \$250 visa issuance fee in addition to the cost of  
26 processing and adjudicating such application. Noth-

1 ing in this paragraph shall be construed to affect  
2 consular procedures for charging reciprocal fees.

3 “(4) MEDICAL EXAMINATION.—The alien shall  
4 undergo a medical examination (including a deter-  
5 mination of immunization status) at the alien’s ex-  
6 pense, that conforms to generally accepted standards  
7 of medical practice.

8 “(5) APPLICATION CONTENT AND WAIVER.—

9 “(A) APPLICATION FORM.—The Secretary  
10 of Homeland Security shall create an applica-  
11 tion form that an alien shall be required to  
12 complete as a condition of being admitted as a  
13 nonimmigrant under section 101(a)(15)(W).

14 “(B) CONTENT.—In addition to any other  
15 information that the Secretary determines is re-  
16 quired to determine an alien’s eligibility for ad-  
17 mission as a nonimmigrant under section  
18 101(a)(15)(W), the Secretary shall require an  
19 alien to provide information concerning the  
20 alien’s criminal history and gang membership,  
21 immigration history, and involvement with  
22 groups or individuals that have engaged in ter-  
23 rorism, genocide, persecution, or who seek the  
24 overthrow of the Government of the United  
25 States.



1 “(C) WAIVER OF RIGHTS.—

2 “(i) AUTHORITY TO REQUEST.—The  
3 Secretary may request that an alien in-  
4 clude with the application a waiver of  
5 rights that states that the alien, in ex-  
6 change for the discretionary benefit of ad-  
7 mission as a nonimmigrant under section  
8 101(a)(15)(W), agrees to waive any  
9 right—

10 “(I) to administrative or judicial  
11 review or appeal of an immigration of-  
12 ficer’s determination as to the alien’s  
13 admissibility; or

14 “(II) to contest any removal ac-  
15 tion, other than on the basis of an ap-  
16 plication for asylum pursuant to the  
17 provisions contained in section 208 or  
18 241(b)(3), or under the Convention  
19 Against Torture and Other Cruel, In-  
20 human or Degrading Treatment or  
21 Punishment, done at New York De-  
22 cember 10, 1984, if such removal ac-  
23 tion is initiated after the termination  
24 of the alien’s period of authorized ad-

1 mission as a nonimmigrant under sec-  
2 tion 101(a)(15)(W).

3 “(ii) REFUSAL TO WAIVE.—The Sec-  
4 retary may not refuse to grant non-  
5 immigrant status under section  
6 101(a)(15)(W) because an alien does not  
7 submit the waiver described in clause (i).

8 “(D) KNOWLEDGE.—The Secretary of  
9 Homeland Security shall require an alien to in-  
10 clude with the application a signed certification  
11 in which the alien certifies that the alien has  
12 read and understood all of the questions and  
13 statements on the application form, and that  
14 the alien certifies under penalty of perjury  
15 under the laws of the United States that the  
16 application, and any evidence submitted with it,  
17 are all true and correct, and that the applicant  
18 authorizes the release of any information con-  
19 tained in the application and any attached evi-  
20 dence for law enforcement purposes.

21 “(c) IMPLEMENTATION AND APPLICATION TIME PE-  
22 RIODS.—The Secretary of Homeland Security shall ensure  
23 that the application process is secure and incorporates  
24 antifraud protection.

25 “(d) ADMISSIBILITY.—

1           “(1) IN GENERAL.—In determining an alien’s  
2       admissibility as a nonimmigrant under section  
3       101(a)(15)(W)—

4           “(A) the Secretary of Homeland Security  
5       may waive paragraphs (5), (6)(A), (7), or  
6       (9)(B) or (C) of section 212(a) for conduct that  
7       occurred on a date prior to the date of the en-  
8       actment of the Welcoming Immigrants to a Se-  
9       cure Homeland Act of 2006;

10          “(B) the Secretary of Homeland Security  
11       may not waive—

12               “(i) subparagraph (A), (B), (C), (E),  
13               (G), (H), or (I) of section 212(a)(2) (relat-  
14               ing to criminals);

15               “(ii) section 212(a)(3) (relating to se-  
16               curity and related grounds); or

17               “(iii) subparagraphs (A), (C), or (D)  
18               of section 212(a)(10) (relating to polyg-  
19               amists, child abductors, and illegal voters);  
20               and

21          “(C) for conduct that occurred prior to the  
22       date that the Welcoming Immigrants to a Se-  
23       cure Homeland Act of 2006 was introduced in  
24       the Senate, the Secretary of Homeland Security  
25       may waive the application of any provision of

1           section 212(a) not listed in subparagraph (B)  
2           on behalf of an individual alien for humani-  
3           tarian purposes, to ensure family unity, or when  
4           such waiver is otherwise in the public interest.

5           “(2) CONSTRUCTION.—No provision in para-  
6           graph (1) shall be construed as affecting the author-  
7           ity of the Secretary of Homeland Security to waive  
8           the provisions of section 212(a) under any other pro-  
9           vision of law.

10          “(3) WAIVER FEE.—An alien who is granted a  
11          waiver under subparagraph (1) shall pay a \$100 fee  
12          upon approval of the alien’s visa application.

13          “(4) RENEWAL OF AUTHORIZED ADMISSION  
14          AND SUBSEQUENT ADMISSIONS.—Notwithstanding  
15          paragraph (1), an alien seeking renewal of author-  
16          ized admission or subsequent admission as a non-  
17          immigrant under section 101(a)(15)(W) shall estab-  
18          lish that the alien is not inadmissible under section  
19          212(a).

20          “(e) BACKGROUND CHECKS.—The Secretary of  
21          Homeland Security shall not admit, and shall not issue  
22          a visa to, an alien seeking admission under section  
23          101(a)(15)(W) until all appropriate background checks,  
24          including any that the Secretary, in the Secretary’s discre-  
25          tion, may require, have been completed.

1 “(f) DURATION.—

2 “(1) INITIAL ADMITTANCE.—An alien may be  
3 admitted as a nonimmigrant under section  
4 101(a)(15)(W) for a period of 3 years.

5 “(2) SUBSEQUENT ADMITTANCE.—

6 “(A) ADDITIONAL PERIODS.—The period  
7 described in paragraph (1) may be extended for  
8 2 additional 3-year periods if the alien estab-  
9 lishes that the alien is employed by an employer  
10 that utilizes the Employment Management Sys-  
11 tem described in section 218C.

12 “(B) RENEWAL APPLICATION.—An alien  
13 admitted as a nonimmigrant under section  
14 101(a)(15)(W) who is seeking an additional pe-  
15 riod of admittance shall submit a renewal appli-  
16 cation no more than 90 days and no less than  
17 45 days before the end of the alien’s 3-year pe-  
18 riod of admissibility under such section. Such  
19 application shall include evidence of the alien’s  
20 employment with an employer that utilizes the  
21 Employment Management System described in  
22 section 218C.

23 “(C) FEE.—An alien shall submit a fee of  
24 \$100 along with the renewal application de-  
25 scribed in subparagraph (B).

1           “(3) REQUIREMENT TO RETURN HOME.—Un-  
2       less an alien is granted a change of status pursuant  
3       to section 245 (as described in subsection (l)), an  
4       alien admitted as a nonimmigrant under section  
5       101(a)(15)(W) shall, upon the expiration of a period  
6       of authorized admittance, leave the United States  
7       and be ineligible to reenter as an alien under section  
8       101(a)(15)(W) or receive any other immigration re-  
9       lief or benefit under this Act or any other law, with  
10      the exception of section 208 or 241(b)(3) or the  
11      Convention Against Torture and Other Cruel, Inhu-  
12      man or Degrading Treatment or Punishment, done  
13      at New York December 10, 1984, until the alien has  
14      resided continuously in the alien’s home country for  
15      a period of not less than 3 years.

16      “(g) STANDARDS FOR DOCUMENTATION.—

17           “(1) IN GENERAL.—The Secretary of Homeland  
18      Security shall ensure that the documents issued to  
19      provide evidence of nonimmigrant status under sec-  
20      tion 101(a)(15)(W) are machine-readable and tam-  
21      per-resistant, and allow for biometric authentication.  
22      The Secretary of Homeland Security is authorized to  
23      incorporate integrated-circuit technology into such  
24      documents.

1           “(2) CONSULTATION.—The Secretary of Home-  
2       land Security shall consult with the head of the Fo-  
3       rensic Document Laboratory and such other Federal  
4       agencies as may be appropriate in designing the doc-  
5       ument.

6           “(3) USE OF DOCUMENTATION.—The document  
7       may serve as a travel, entry, and work authorization  
8       document during the period that the document is  
9       valid.

10       “(h) FAILURE TO DEPART.—

11           “(1) INADMISSIBILITY FOR FAILURE TO DE-  
12       PART.—Subject to paragraph (2), an alien admitted  
13       as a nonimmigrant under section 101(a)(15)(W)  
14       who fails to depart the United States prior to the  
15       date that is 10 days after the date that the alien’s  
16       authorized period of admission under this section  
17       ends is not eligible for and may not receive any im-  
18       migration relief or benefit under this Act or any  
19       other law for a period of 10 years.

20           “(2) EXCEPTION.—The prohibition in para-  
21       graph (1) may not be applied to prohibit the admis-  
22       sion of an alien under section 208 or 241(b)(3), or  
23       the Convention Against Torture and Other Cruel,  
24       Inhuman or Degrading Treatment or Punishment,  
25       done at New York December 10, 1984.

1 “(i) FAMILY MEMBERS.—

2 “(1) IN GENERAL.—The spouse or child of an  
3 alien admitted as a nonimmigrant under section  
4 101(a)(15)(W) may be admitted to the United  
5 States—

6 “(A) as a nonimmigrant for the same  
7 amount of time, and on the same terms and  
8 conditions, as the alien admitted as a non-  
9 immigrant under section 101(a)(15)(W); or

10 “(B) under any other provision of law, if  
11 such family member is otherwise eligible for ad-  
12 mission.

13 “(2) APPLICATION FEE.—The spouse or child  
14 of an alien admitted as a nonimmigrant under sec-  
15 tion 101(a)(15)(W) who is seeking to be admitted  
16 pursuant to this subsection shall submit, in addition  
17 to any other fee authorized by law, an additional fee  
18 of \$100.

19 “(j) TRAVEL OUTSIDE THE UNITED STATES.—

20 “(1) IN GENERAL.—An alien admitted as a  
21 nonimmigrant under section 101(a)(15)(W) and the  
22 spouse or child of such alien admitted pursuant to  
23 subsection (i)—

24 “(A) may travel outside of the United  
25 States; and



1           “(B) may be readmitted to the United  
2           States without having to obtain a new visa if  
3           the period of authorized admission under sec-  
4           tion 101(a)(15)(W) has not expired.

5           “(2) EFFECT ON PERIOD OF AUTHORIZED AD-  
6           MISSION.—Time spent outside the United States  
7           under paragraph (1) may not extend the period of  
8           authorized admission in the United States permitted  
9           for an alien admitted under section 101(a)(15)(W)  
10          or for the spouse or child of such alien admitted  
11          under subsection (i).

12          “(k) EMPLOYMENT.—

13           “(1) PORTABILITY.—An alien admitted as a  
14           nonimmigrant under section 101(a)(15)(W) may be  
15           employed by any United States employer that uti-  
16           lizes the Employment Management System described  
17           in section 218C.

18           “(2) CONTINUOUS EMPLOYMENT.—

19           “(A) REQUIREMENT FOR EMPLOYMENT.—

20           An alien admitted under section 101(a)(15)(W)  
21           shall be employed while in the United States.

22           An alien who fails to be employed for 30 con-  
23           secutive days is ineligible for employment in the  
24           United States unless the alien departs the  
25           United States and thereafter provides evidence

1 of an offer of employment with any United  
2 States employer that utilizes the Employment  
3 Management System described in section 218C.

4 “(B) WAIVER.—The Secretary of Home-  
5 land Security may, in the Secretary’s sole and  
6 unreviewable discretion, waive the application of  
7 subparagraph (A) for an alien and authorize  
8 the alien for employment without requiring the  
9 alien to depart the United States.

10 “(I) ADJUSTMENT OF STATUS TO LAWFUL PERMA-  
11 NENT RESIDENT.—

12 “(1) ELIGIBILITY.—An alien admitted as a  
13 nonimmigrant under section 101(a)(15)(W) shall be  
14 eligible for an adjustment of status pursuant to sec-  
15 tion 245 after such alien has completed a period of  
16 employment in the United States of not less than 6  
17 years.

18 “(2) FAMILY ELIGIBILITY.—The spouse or child  
19 of an alien granted an adjustment of status as de-  
20 scribed in paragraph (1) shall be eligible as a deriva-  
21 tive beneficiary for adjustment of status.

22 “(m) NUMERICAL LIMIT.—

23 “(1) IN GENERAL.—Subject to paragraph (2),  
24 the Secretary of Homeland Security may not admit

1 more than 500,000 aliens as nonimmigrants pursu-  
2 ant to section 101(a)(15)(W) during a fiscal year.

3 “(2) AUTHORITY TO INCREASE LIMITATION.—

4 The Secretary of Homeland Security may waive the  
5 numerical limitation described in paragraph (1) for  
6 a fiscal year if the Secretary determines that busi-  
7 nesses in the United States would benefit from such  
8 waiver.”.

9 (b) INITIAL RECEIPT OF APPLICATIONS.—The Sec-  
10 retary of Homeland Security shall begin accepting applica-  
11 tions for nonimmigrant status under section  
12 101(a)(15)(W) of the Immigration and Nationality Act,  
13 as added by section 201, not later than 6 months after  
14 the date of the enactment of this Act.

15 (c) CONFORMING AMENDMENT.—Section 248(1) of  
16 the Immigration and Nationality Act (8 U.S.C. 1258(1))  
17 is amended by striking “or (S)” and inserting “(S), or  
18 (W)”.

19 **SEC. 203. SPECIAL RULE FOR MEXICO.**

20 (a) IN GENERAL.—No alien who is a citizen or na-  
21 tional of Mexico shall be eligible for status as a non-  
22 immigrant under section 101(a)(15)(W) of the Immigra-  
23 tion and Nationality Act, as added by section 201, a  
24 change of status under section 218B of the Immigration  
25 and Nationality Act, as added by section 301, an exemp-

1 tion from numerical limitations under section  
2 201(b)(1)(F) of the Immigration and Nationality Act, as  
3 added by section 602, or for an immigration benefit de-  
4 scribed in section 603, 604, or 605 until the date that  
5 Government of Mexico enters into a bilateral agreement  
6 with the Government of the United States, as described  
7 in subsection (b).

8 (b) REQUIREMENTS FOR BILATERAL AGREEMENT.—

9 The bilateral agreement referred to in subsection (a) shall  
10 require the Government of Mexico—

11 (1) to accept the return of a citizen or national  
12 of Mexico who is ordered removed from the United  
13 States not later than 5 days after such order is  
14 issued;

15 (2) to cooperate with the Government of the  
16 United States—

17 (A) to identify, track, and reduce—

18 (i) gang membership and violence in  
19 the United States and Mexico;

20 (ii) human trafficking and smuggling  
21 between the United States and Mexico;  
22 and

23 (iii) drug trafficking and smuggling  
24 between the United States and Mexico;  
25 and

1 (B) to control illegal immigration from  
2 Mexico into the United States;

3 (3) to provide the Government of the United  
4 States with—

5 (A) the passport information and criminal  
6 record of any citizen or national of Mexico who  
7 is seeking admission to the United States or is  
8 present in the United States; and

9 (B) admission and entry data maintained  
10 by the Government of Mexico to facilitate the  
11 entry-exit data systems maintained by the  
12 United States; and

13 (4) to carry out activities to educate citizens  
14 and nationals of Mexico regarding eligibility for sta-  
15 tus as a nonimmigrant under section 101(a)(15)(W)  
16 of the Immigration and Nationality Act, as added by  
17 section 201, or a change of status under section  
18 218B of the Immigration and Nationality Act, as  
19 added by section 301 of this Act, to ensure that  
20 such citizens and nationals are not exploited while  
21 working in the United States.

22 (c) ANNUAL REPORT.—Not later than 180 days after  
23 the date of the enactment of this Act, and annually there-  
24 after, the Secretary of Homeland Security shall submit to  
25 Congress a report on the bilateral agreement described in

1 this section and the activities of the Government of Mexico  
 2 to carry out such agreement.

3 **SEC. 204. STATUTORY CONSTRUCTION.**

4 Nothing in this title, or any amendment made by this  
 5 title, shall be construed to create any substantive or proce-  
 6 dural right or benefit that is legally enforceable by any  
 7 party against the United States or its agencies or officers  
 8 or any other person.

9 **SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

10 There are authorized to be appropriated such sums  
 11 as may be necessary for facilities, personnel (including  
 12 consular officers), training, technology and processing nec-  
 13 essary to carry out the amendments made by this title.

14 **TITLE III—NONIMMIGRANT**  
 15 **GUEST WORKER STATUS FOR**  
 16 **UNAUTHORIZED ALIENS**

17 **SEC. 301. NONIMMIGRANT GUEST WORKER STATUS FOR**  
 18 **UNAUTHORIZED ALIENS.**

19 (a) IN GENERAL.—The Immigration and Nationality  
 20 Act (8 U.S.C. 1101 et seq.) is amended by inserting after  
 21 section 218A, as added by section 202, the following new  
 22 section:

1 **“SEC. 218B. CHANGE OF STATUS OF UNAUTHORIZED**  
2 **ALIENS.**

3 “(a) IN GENERAL.—The Secretary of Homeland Se-  
4 curity shall grant nonimmigrant status under section  
5 101(a)(15)(W) to an alien who is in the United States  
6 illegally if such alien meets the requirements of this sec-  
7 tion.

8 “(b) GENERAL REQUIREMENTS.—An alien may be el-  
9 igible for a change of status under this section if the alien  
10 meets the following requirements:

11 “(1) PRESENCE.—An alien must establish that  
12 the alien was physically present in the United States  
13 prior to the date of introduction of the Welcoming  
14 Immigrants to a Secure Homeland Act of 2006 in  
15 the Senate and was not legally present in the United  
16 States under any classification set forth in section  
17 101(a)(15) on that date.

18 “(2) EMPLOYMENT.—An alien must establish  
19 that the alien was employed in the United States  
20 prior to the date of introduction of such Act in the  
21 Senate, and has not been unemployed in the United  
22 States for 30 or more consecutive days since that  
23 date.

24 “(3) MEDICAL EXAMINATION.—An alien shall,  
25 at the alien’s expense, undergo a medical examina-  
26 tion (including a determination of immunization sta-

1       tus) that conforms to generally accepted professional  
2       standards of medical practice.

3       “(c) APPLICATION CONTENT AND WAIVER.—

4               “(1) APPLICATION FORM.—The Secretary of  
5       Homeland Security shall create an application form  
6       that an alien shall be required to complete as a con-  
7       dition of obtaining a change of status under this sec-  
8       tion.

9               “(2) CONTENT.—In addition to any other infor-  
10      mation that the Secretary determines is required to  
11      determine an alien’s eligibility for a change of status  
12      under this section, the Secretary shall require that  
13      the alien—

14               “(A) provide answers to questions con-  
15      cerning the alien’s criminal history and gang  
16      membership, immigration history, and involve-  
17      ment with groups or individuals that have en-  
18      gaged in terrorism, genocide, persecution, or  
19      who seek the overthrow of the Government of  
20      the United States;

21               “(B) provide any Social Security account  
22      number or card in the possession of the alien or  
23      relied upon by the alien; and

24               “(C) provide any false or fraudulent docu-  
25      ments in the alien’s possession.



1 “(3) WAIVER OF RIGHTS.—

2 “(A) AUTHORITY TO REQUEST.—The Sec-  
3 retary may request that an alien include with  
4 the application a waiver of rights that states  
5 that the alien, in exchange for the discretionary  
6 benefit of obtaining a change of status under  
7 this section, agrees to waive any right—

8 “(i) to administrative or judicial re-  
9 view or appeal of an immigration officer’s  
10 determination as to the alien’s admissi-  
11 bility; or

12 “(ii) to contest any removal action,  
13 other than on the basis of an application  
14 for asylum pursuant to the provisions con-  
15 tained in section 208 or 241(b)(3), or  
16 under the Convention Against Torture and  
17 Other Cruel, Inhuman or Degrading Treat-  
18 ment or Punishment, done at New York  
19 December 10, 1984, if such removal action  
20 is initiated after the termination of the  
21 alien’s period of authorized admission as a  
22 nonimmigrant under section  
23 101(a)(15)(W).

24 “(B) REFUSAL TO WAIVE.—The Secretary  
25 may not refuse to grant nonimmigrant status

1 under section 101(a)(15)(W) because an alien  
2 does not submit the waiver described in sub-  
3 paragraph (A).

4 “(C) KNOWLEDGE.—The Secretary of  
5 Homeland Security shall require an alien to in-  
6 clude with the application a signed certification  
7 in which the alien certifies that the alien has  
8 read and understood all of the questions, state-  
9 ments, and terms of the application form, and  
10 that the alien certifies under penalty of perjury  
11 under the laws of the United States that the  
12 application, and any evidence submitted with it,  
13 are all true and correct, and that the applicant  
14 authorizes the release of any information con-  
15 tained in the application and any attached evi-  
16 dence for law enforcement purposes.

17 “(4) APPLICATION FEE AND FINES.—

18 “(A) REQUIREMENT TO PAY.—An alien  
19 applying for a change of status under this sec-  
20 tion shall pay—

21 “(i) a \$250 visa issuance fee in addi-  
22 tion to the cost of processing and adjudi-  
23 cating such application; and

24 “(ii) a fine of \$1000.

1           “(B) CONSTRUCTION.—Nothing in this  
2           paragraph shall be construed to affect consular  
3           procedures for charging reciprocal fees.

4           “(d) ADMISSIBILITY.—

5           “(1) IN GENERAL.—In determining an alien’s  
6           eligibility for a change of status under this section—

7           “(A) the alien shall establish that the  
8           alien—

9           “(i) except as provided as in subpara-  
10           graph (B), is admissible to the United  
11           States; and

12           “(ii) has not assisted in the persecu-  
13           tion of any person or persons on account  
14           of race, religion, nationality, membership  
15           in a particular social group, or political  
16           opinion;

17           “(B) paragraphs (5), (6)(A), and (7) of  
18           section 212(a) shall not apply to the admissi-  
19           bility of such alien;

20           “(C) the Secretary of Homeland Security  
21           may waive any other provision of section  
22           212(a), or a ground of ineligibility under para-  
23           graph (4), in the case of individual aliens for  
24           humanitarian purposes, to assure family unity,  
25           or when it is otherwise in the public interest.

1           “(2) WAIVER FEE.—An alien who is granted a  
 2           waiver under subparagraph (C) shall pay a \$100 fee  
 3           upon approval of the alien’s visa application.

4           “(e) INELIGIBLE.—An alien is ineligible for the  
 5           change of status provided by this section if the alien—

6           “(1) is subject to a final order or removal under  
 7           section 240;

8           “(2) failed to depart the United States during  
 9           the period of a voluntary departure order under sec-  
 10          tion 240B;

11          “(3) has been issued a Notice to Appear under  
 12          section 239, unless the sole acts of conduct alleged  
 13          to be in violation of the law are that the alien is re-  
 14          movable under section 237(a)(1)(C) or is inadmis-  
 15          sible under section 212(a)(6)(A);

16          “(4) fails to comply with any request for infor-  
 17          mation made by the Secretary of Homeland Secu-  
 18          rity;

19          “(5) commits an act that makes the alien re-  
 20          movable from the United States.

21          “(f) IMPLEMENTATION AND APPLICATION TIME PE-  
 22          RIODS.—

23          “(1) IN GENERAL.—The Secretary of Homeland  
 24          Security shall ensure that the application process for

1 an adjustment of status under this section is secure  
2 and incorporates antifraud protection.

3 “(2) APPLICATION.—An alien must submit an  
4 initial application for a change of status under this  
5 section not later than 3 years after the date of the  
6 enactment of the Welcoming Immigrants to a Secure  
7 Homeland Act of 2006. An alien that fails to comply  
8 with this requirement is ineligible for a change of  
9 status under this section.

10 “(3) COMPLETION OF PROCESSING.—The Sec-  
11 retary of Homeland Security shall ensure that all  
12 applications for a change of status under this section  
13 are processed not later than 3 years after the date  
14 of the application.

15 “(4) LOCATION.—An alien applying for a  
16 change of status under this section need not depart  
17 the United States in order to apply for such a  
18 change of status.

19 “(g) FAILURE TO ACT.—An alien unlawfully in the  
20 United States who fails to apply for a change of status  
21 pursuant to this section or fails to depart from the United  
22 States prior to the date that is 6 years after the date of  
23 the enactment of the Welcoming Immigrants to a Secure  
24 Homeland Act of 2006 is not eligible and may not apply  
25 for or receive any immigration relief or benefit under this

1 Act or any other law, with the exception of section 208  
 2 or 241(b)(3) or the Convention Against Torture and Other  
 3 Cruel, Inhuman or Degrading Treatment or Punishment,  
 4 done at New York December 10, 1984.

5 “(h) SECURITY AND LAW ENFORCEMENT BACK-  
 6 GROUND CHECKS.—

7 “(1) BIOMETRIC DATA.—An alien may not be  
 8 granted a change of status under this section unless  
 9 the alien submits biometric data in accordance with  
 10 procedures established by the Secretary of Home-  
 11 land Security.

12 “(2) BACKGROUND CHECKS.—The Secretary of  
 13 Homeland Security may not grant a change of sta-  
 14 tus under this section until all appropriate back-  
 15 ground checks, including any that the Secretary, in  
 16 the Secretary’s discretion may require, are com-  
 17 pleted to the satisfaction of the Secretary of Home-  
 18 land Security.

19 “(i) DURATION, EXTENSION, AND REENTRY.—

20 “(1) DURATION AND EXTENSION.—The period  
 21 of authorized admission for an alien granted a  
 22 change of status under this section shall be 3 years,  
 23 and may be extended for 2 additional 3-year periods  
 24 if the alien establishes that the alien has a job with

1 an employer that utilizes the Employment Manage-  
2 ment System described in section 218C.

3 “(2) APPLICATION FOR EXTENSION.—

4 “(A) IN GENERAL.—An alien granted a  
5 change of status for a 3-year period under this  
6 section who is seeking an extension of such sta-  
7 tus shall submit an application for such exten-  
8 sion no more than 90 days and no less than 45  
9 days before the end of such 3-year period. The  
10 application shall provide evidence of employ-  
11 ment with an employer that utilizes the Em-  
12 ployment Management System described in sec-  
13 tion 218C.

14 “(B) FEE.—An alien who submits an ap-  
15 plication for an extension described in subpara-  
16 graph (A), shall pay a \$100 fee with such appli-  
17 cation.

18 “(3) REENTRY.—Unless an alien is granted a  
19 change of status or adjustment of status pursuant to  
20 subsection (n), an alien granted a change of status  
21 pursuant to this section shall, upon the expiration of  
22 the time period for authorized admission under this  
23 section, leave the United States and be ineligible to  
24 reenter the United States as a nonimmigrant under  
25 section 101(a)(15)(W), or receive any other immi-

1       gration relief or benefit under this Act or any other  
2       law, with the exception of section 208 or 241(b)(3)  
3       or the Convention Against Torture and Other Cruel,  
4       Inhuman or Degrading Treatment or Punishment,  
5       done at New York December 10, 1984, until the  
6       alien has resided continuously in the alien's home  
7       country for a period of not less than 3 years.

8       “(j) STANDARDS FOR DOCUMENTATION.—

9               “(1) IN GENERAL.—The Secretary of Homeland  
10       Security shall ensure that the document issued to  
11       provide evidence of status under this section shall be  
12       machine-readable, tamper-resistant, and allow for bi-  
13       ometric authentication. The Secretary of Homeland  
14       Security is authorized to incorporate integrated-cir-  
15       cuit technology into the document.

16              “(2) CONSULTATION.—The Secretary of Home-  
17       land Security shall consult with the head of the Fo-  
18       rensic Document Laboratory and such other Federal  
19       agencies as may be appropriate in designing the doc-  
20       ument.

21              “(3) USE OF DOCUMENT.—The document may  
22       serve as a travel, entry, and work authorization doc-  
23       ument during the period of its validity.

24       “(k) FAILURE TO DEPART.—



1           “(1) INADMISSABILITY FOR FAILURE TO DE-  
 2           PART.—Subject to paragraph (2), an alien who fails  
 3           to depart the United States prior to the date that  
 4           is 10 days after the date that the alien’s authorized  
 5           period of admission under this section ends is not el-  
 6           igible for and may not apply for or receive any im-  
 7           migration relief or benefit under this Act or any  
 8           other law for a period of 10 years.

9           “(2) EXCEPTION.—The prohibition in para-  
 10          graph (1) may not be applied to prohibit the admis-  
 11          sion of an alien under section 208 or 241(b)(3) of  
 12          the Convention Against Torture and Other Cruel,  
 13          Inhuman or Degrading Treatment or Punishment,  
 14          done at New York, December 10, 1984.

15          “(1) TRAVEL OUTSIDE THE UNITED STATES.—

16               “(1) IN GENERAL.—An alien granted a change  
 17               of status under this section and the spouse or child  
 18               of such alien admitted pursuant to subsection (o)—

19                       “(A) may travel outside of the United  
 20                       States; and

21                       “(B) may be readmitted without having to  
 22                       obtain a new visa if the period of authorized ad-  
 23                       mission under this section has not expired.

24               “(2) EFFECT ON PERIOD OF AUTHORIZED AD-  
 25               MISSION.—Time spent outside the United States

1 under paragraph (1) may not extend the period of  
2 authorized admission in the United States permitted  
3 for an alien under this section or for the spouse or  
4 child of such alien admitted under subsection (o).

5 “(m) EMPLOYMENT.—

6 “(1) IN GENERAL.—An alien granted a change  
7 of status under this section shall be employed by an  
8 employer that utilizes the Employment Management  
9 System described in section 218C not more than 3  
10 months after the date the alien applies for a change  
11 of status under this section.

12 “(2) LIABILITY FOR PENALTIES OR FEES.—The  
13 employer of an alien granted a change of status  
14 under this section shall not be liable for any civil or  
15 criminal penalties or fees for hiring the alien prior  
16 to such change of status if the employer begins to  
17 utilize such Employment Management System pur-  
18 suant to this subsection.

19 “(3) PORTABILITY.—An alien may be employed  
20 by any other United States employer who utilizes the  
21 Employment Management System established by  
22 section 218C.

23 “(4) CONTINUOUS EMPLOYMENT.—

24 “(A) REQUIREMENT FOR EMPLOYMENT.—

25 An alien granted a change of status under this

1 section who fails to be employed for 30 consecu-  
2 tive days is ineligible for reentry or employment  
3 in the United States unless the alien departs  
4 the United States and is admitted for reentry  
5 under a provision of this Act or any other pro-  
6 vision of law.

7 “(B) WAIVER.—The Secretary of Home-  
8 land Security may, in the Secretary’s sole and  
9 unreviewable discretion, waive the application of  
10 subparagraph (A) for an alien and authorize  
11 the alien for employment without requiring the  
12 alien to depart the United States.

13 “(n) LIMITATION ON CHANGE OF STATUS OR AD-  
14 JUSTMENT OF STATUS.—

15 “(1) IN GENERAL.—An alien described in para-  
16 graph (2) may apply for a visa, an adjustment of  
17 status, or other immigration benefit, other than for  
18 adjustment of status to lawful permanent resident,  
19 after the alien has resided lawfully in the United  
20 States pursuant to a change of status granted as de-  
21 scribed in this section for a period of not less than  
22 5 years, but such application shall not be granted  
23 until the alien has returned to the alien’s home  
24 country.

1           “(2) REQUIREMENTS TO APPLY.—An alien de-  
2       scribed in this paragraph is an alien who—

3           “(A) has been granted a change of status  
4       under this section; and

5           “(B) during the 5-year period ending on  
6       the date of the enactment of the Welcoming Im-  
7       migrants to a Secure Homeland Act of 2006—

8           “(i) was physically present in the  
9       United States; and

10          “(ii) unemployed for no more than 30  
11       consecutive days.

12       “(o) FAMILY MEMBERS.—

13          “(1) IN GENERAL.—The spouse or child of an  
14       alien admitted as a nonimmigrant under this section  
15       may be admitted to the United States—

16          “(A) as a nonimmigrant for the same  
17       amount of time, and on the same terms and  
18       conditions, as the alien granted a change of sta-  
19       tus under this section; or

20          “(B) under any other provision of law, if  
21       such family member is otherwise eligible for ad-  
22       mission.

23          “(2) APPLICATION FEE.—The spouse or child  
24       of an alien admitted under this section who is seek-  
25       ing to be admitted pursuant to this subsection shall

1 submit, in addition to any other fee authorized by  
2 law, an additional fee of \$100.

3 “(p) NUMERICAL LIMIT.—There shall be no numer-  
4 ical limitation on the number of aliens granted a change  
5 of status under this section.

6 “(q) PENALTIES FOR FALSE STATEMENTS.—

7 “(1) CRIMINAL PENALTY.—

8 “(A) VIOLATION.—It shall be unlawful for  
9 any person—

10 “(i) to file or assist in filing an appli-  
11 cation for a change of status under this  
12 section and knowingly or willfully falsify,  
13 misrepresent, conceal, or cover up a mate-  
14 rial fact or make any false, fictitious, or  
15 fraudulent statements or representations,  
16 or make or use any false writing or docu-  
17 ment knowing the same to contain any  
18 false, fictitious, or fraudulent statement or  
19 entry; or

20 “(ii) to create or supply a false writ-  
21 ing or document for use in making such an  
22 application.

23 “(B) PENALTY.—Any person who violates  
24 subparagraph (A) shall be fined in accordance

1           with title 18, United States Code, imprisoned  
2           not more than 5 years, or both.

3           “(2) INADMISSIBILITY.—An alien who is con-  
4           victed of a crime under paragraph (1) shall be con-  
5           sidered to be inadmissible to the United States on  
6           the ground described in section 212(a)(6)(C)(i).”.

7           (b) INITIAL RECEIPT OF APPLICATIONS.—The Sec-  
8           retary of Homeland Security shall begin accepting applica-  
9           tions for a change of status under section 218B of the  
10          Immigration and Nationality Act, as added by subsection  
11          (a), not later than 6 months after the date of the enact-  
12          ment of this Act.

13   **SEC. 302. STATUTORY CONSTRUCTION.**

14          Nothing in this title, or any amendment made by this  
15          title, shall be construed to create any substantive or proce-  
16          dural right or benefit that is legally enforceable by any  
17          party against the United States or its agencies or officers  
18          or any other person.

19   **SEC. 303. AUTHORIZATION OF APPROPRIATIONS.**

20          There is authorized to be appropriated such sums as  
21          may be necessary for facilities, personnel (including con-  
22          sular officers), training, technology, and processing nec-  
23          essary to carry out the amendments made by this title.

## **TITLE IV—EMPLOYMENT MANAGEMENT SYSTEM**

### **SEC. 401. EMPLOYMENT MANAGEMENT SYSTEM.**

The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 218B, as added by section 301, the following new section:

### **“SEC. 218C. EMPLOYMENT MANAGEMENT SYSTEM.**

**“(a) ESTABLISHMENT.—**

**“(1) PURPOSE.—**The Secretary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of State, and the Commissioner of Social Security, shall develop and implement a program to authorize, manage, and track the employment of aliens described in section 218A or 218B.

**“(2) SCHEDULE.—**The program required by subsection (a) shall commence prior to any alien being admitted as a nonimmigrant under section 101(a)(15)(W) pursuant to section 218A or granted a change of status under section 218B.

**“(3) REQUIREMENTS.—**The program required by this subsection shall—

**“(A)** enable an employer seeking to hire an alien described in section 218A or 218B to apply for authorization to employ such alien;

1           “(B) be interoperable with Social Security  
2           databases and shall provide a means of imme-  
3           diately verifying the identity and employment  
4           authorization of an alien described in section  
5           218A or 218B;

6           “(C) require an employer to utilize readers,  
7           scanners, or other affordable technology at the  
8           location of employment or at a nearby Federal  
9           facility to transmit the biometric and biographic  
10          information contained in the alien’s evidence of  
11          status to the Secretary of Homeland Security;

12          “(D) require an employer that employs an  
13          alien described in section 218A or 218B to no-  
14          tify the Secretary not more than 5 business  
15          days after the date of the termination of the  
16          alien’s employment and prohibit such an em-  
17          ployer from hiring another such alien for such  
18          employment until the employer provides such  
19          notice; and

20          “(E) collects sufficient information from  
21          employers to enable the Secretary of Homeland  
22          Security to identify—

23                  “(i) whether an alien described in sec-  
24                  tion 218A or 218B is employed;



1 “(ii) an employer who has hired an  
2 alien described in section 218A or 218B;

3 “(iii) the number of aliens described  
4 in section 218A or 218B that are employed  
5 by an employer; and

6 “(iv) the occupation, industry and  
7 length of time that an alien described in  
8 section 218A or 218B has been employed  
9 in the United States.

10 “(b) APPLICATION TO EMPLOY ALIENS DESCRIBED  
11 IN SECTION 218A OR 218B.—

12 “(1) REQUIREMENT FOR APPLICATION.—An  
13 employer shall submit to the Secretary of Homeland  
14 Security an application to request an authorization  
15 to employ aliens described in section 218A or 218B.  
16 Such application shall—

17 “(A) establish that such aliens will be em-  
18 ployed by a legitimate company;

19 “(B) include an attestation that the em-  
20 ployer will comply with the terms of the pro-  
21 gram required by subsection (a) and with all  
22 other applicable Federal, State, and local laws  
23 and regulations, including provisions to protect  
24 employees; and

1                   “(C) include the number of such aliens the  
2                   employer is seeking to employ.

3                   “(2) FORM OF APPLICATION.—The Secretary  
4                   shall permit an employer to submit the application  
5                   described in paragraph (1) in a written or electronic  
6                   form.

7                   “(c) PROTECTION OF UNITED STATES WORKERS.—  
8                   An employer may not hire an alien described in section  
9                   218A or 218B for a vacancy unless the employer submits  
10                  an attestation to the Secretary of Homeland Security  
11                  that—

12                  “(1) the employer has advertised the position in  
13                  a national, electronic job registry maintained by the  
14                  Secretary of Labor for not less than 30 days;

15                  “(2) the employer has offered the position to  
16                  any eligible United States worker who applies and is  
17                  equally or better qualified for the vacancy for which  
18                  such an alien is sought and who will be available at  
19                  the time and place of need, and the employer will  
20                  maintain records for not less than 1 year that de-  
21                  scribe the reason that a United States worker who  
22                  applied for such vacancy was not hired;

23                  “(3) the employer shall comply with the terms  
24                  of the program required by subsection (a), including  
25                  the terms of any temporary worker monitoring pro-

1       gram established by the Secretary of Homeland Se-  
2       curity;

3           “(4) an alien hired for the vacancy shall be paid  
4       not less than the greater of—

5           “(A) the hourly wage prescribed under sec-  
6       tion 6(a)(1) of the Fair Labor Standards Act of  
7       1938 (29 U.S.C. 206(a)(1)); or

8           “(B) the applicable State minimum wage;

9           “(5) the employer will pay such alien in a time-  
10      ly manner and accurately maintain all payroll  
11      records for such alien; and

12          “(6) the employment of such alien shall not ad-  
13      versely affect the working conditions of other simi-  
14      larly employed United States workers.

15          “(d) APPROVAL.—After determining that there are  
16      no United States workers who are qualified and willing  
17      to obtain the employment for which the employer is seek-  
18      ing an alien described in section 218A or 218B, the Sec-  
19      retary of Homeland Security may approve the application  
20      submitted by the employer under subsection (b). Such ap-  
21      proval shall be valid for a 10-year period unless the em-  
22      ployer violates a term of this section, in which case the  
23      Secretary may, in the discretion of the Secretary, revoke  
24      the approval.

1       “(e) PENALTIES.—An employer who employs an alien  
 2 described in section 218A or 218B without obtaining au-  
 3 thorization from the Secretary of Homeland Security pur-  
 4 suant to this section is subject to—

5               “(1) the same penalties and provisions as an  
 6 employer who violates paragraph (1)(A) or (2) of  
 7 section 274(a); and

8               “(2) any penalties prescribed by the Secretary  
 9 of Homeland Security by regulation, which may in-  
 10 clude monetary penalties and ineligibility to employ  
 11 an alien described in section 218A or 218B.”.

12 **SEC. 402. LABOR INVESTIGATIONS AND PENALTIES.**

13       (a) IN GENERAL.—The Secretary of Homeland Secu-  
 14 rity, in cooperation with the Secretary of Labor, shall con-  
 15 duct random audits of employers who employ aliens de-  
 16 scribed under section 218A or 218B of the Immigration  
 17 and Nationality Act, as added by section 202 and 301,  
 18 respectively.

19       (b) PENALTIES.—The Secretary of Homeland Secu-  
 20 rity shall establish penalties, which may include ineligi-  
 21 bility to employ an alien described in section 218A or  
 22 218B of the Immigration and Nationality Act, as added  
 23 by section 202 and 301, respectively, for employers who  
 24 fail to comply with section 218C of such Act, as added  
 25 by section 401 of this Act, and shall establish protections

1 for aliens who report employers who fail to comply with  
2 such section 218C.

3 **TITLE V—PROTECTION AGAINST**  
4 **IMMIGRATION FRAUD**

5 **SEC. 501. GRANTS TO SUPPORT PUBLIC EDUCATION AND**  
6 **TRAINING.**

7 (a) PURPOSE.—The purpose of this title is to provide  
8 grants to nonprofit entities, immigrant communities, and  
9 other interested entities to provide education and training  
10 to appropriate individuals regarding the changes to immi-  
11 gration law made by this Act, and the amendments made  
12 by this Act, and to provide support to such entities.

13 (b) AUTHORITY.—The head of the Office of Justice  
14 Programs of the Department of Justice is authorized to  
15 award grants to nonprofit entities, immigrant commu-  
16 nities, and other interested entities for the purposes de-  
17 scribed in subsection (c).

18 (c) USE OF GRANTS.—The grants awarded under  
19 this section shall be used to fund public education, train-  
20 ing, technical assistance, government liaisons, and related  
21 costs (including personnel and equipment) incurred by  
22 nonprofit entities that provide services to aliens who may  
23 be effected by the changes in immigration law made by  
24 this Act, and the amendments made by this Act, and to  
25 educate, train and support nonprofit organizations, immi-

1 grant communities, and other interested parties regarding  
2 such changes. Such grants shall be used for educating—

3           (1) immigrant communities and other interested  
4 entities on the individuals and organizations that  
5 can provide authorized legal representation in immi-  
6 gration matters under regulations prescribed by the  
7 Secretary of Homeland Security, and on the dangers  
8 of securing legal advice and assistance from a person  
9 who is not authorized to provide legal representation  
10 in immigration matters;

11           (2) interested entities on the requirements for  
12 obtaining nonprofit recognition and accreditation to  
13 represent immigrants under regulations prescribed  
14 by the Secretary of Homeland Security, and pro-  
15 viding nonprofit agencies with training and technical  
16 assistance on the recognition and accreditation proc-  
17 ess; and

18           (3) nonprofit organizations, immigrant commu-  
19 nities and other interested entities on the process for  
20 obtaining benefits under this Act, and the amend-  
21 ments made by this Act, and the availability of au-  
22 thorized legal representation for low-income persons  
23 who may qualify for benefits under this Act.

24           (d) IN GENERAL.—The head of the Office of Justice  
25 Programs shall ensure, to the extent possible, that the en-

1 titles awarded grants under this section shall serve geo-  
 2 graphically diverse locations and ethnically diverse popu-  
 3 lations who may qualify for benefits under the Act or the  
 4 amendments made by this Act.

5 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
 6 are authorized to be appropriated to the Office of Justice  
 7 Programs at the Department of Justice \$10,000,000 to  
 8 carry out this section for each of fiscal years 2007 through  
 9 2011.

## 10 **TITLE VI—HIGHLY EDUCATED** 11 **AND SKILLED WORKERS**

### 12 **SEC. 601. REMOVAL OF NUMERICAL LIMITATIONS FOR** 13 **NONIMMIGRANTS WITH ADVANCED DEGREES.**

14 (a) IN GENERAL.—Section 214(g)(5)(C) of the Im-  
 15 migration and Nationality Act (8 U.S.C. 1184(g)(5)(C))  
 16 is amended by striking “, until the number of aliens who  
 17 are exempted from such numerical limitation during such  
 18 year exceeds 20,000”.

19 (b) APPLICABILITY.—The amendment made by sub-  
 20 section (a) shall apply to an alien who—

- 21 (1) has submitted an application for a visa that
- 22 is pending on the date of the enactment of this Act;
- 23 or
- 24 (2) files such an application on or after such
- 25 date.

1 **SEC. 602. ALIENS NOT SUBJECT TO NUMERICAL LIMITA-**  
 2 **TIONS ON EMPLOYMENT-BASED IMMI-**  
 3 **GRANTS.**

4 (a) IN GENERAL.—Section 201(b)(1) of the Immi-  
 5 gration and Nationality Act (8 U.S.C. 1151(b)(1)) is  
 6 amended by adding at the end the following:

7 “(F) Aliens who have earned an advanced  
 8 degree in science, technology, engineering, or  
 9 math from an accredited university in the  
 10 United States and have been working in a re-  
 11 lated field in the United States under a non-  
 12 immigrant visa during the 3-year period pre-  
 13 ceding their application for an immigrant visa  
 14 under section 203(b).

15 “(G) Aliens described in subparagraph (A)  
 16 or (B) of section 203(b)(1) or who have re-  
 17 ceived a national interest waiver under section  
 18 203(b)(2)(B).

19 “(H) The spouse and child of an alien who  
 20 is admitted as an employment-based immigrant  
 21 under section 203(b).”.

22 (b) APPLICABILITY.—The amendment made by sub-  
 23 section (a) shall apply to an alien who—

24 (1) has submitted an application for a visa that  
 25 is pending on the date of the enactment of this Act;  
 26 or



1           (2) files such an application on or after such  
2       date.

3       **SEC. 603. OFF-CAMPUS WORK AUTHORIZATION FOR FOR-**  
4                               **EIGN STUDENTS.**

5       (a) IN GENERAL.—Aliens admitted as nonimmigrant  
6       students described in section 101(a)(15)(F) of the Immi-  
7       gration and Nationality Act (8 U.S.C. 1101(a)(15)(F))  
8       may be employed in an off-campus position unrelated to  
9       the alien’s field of study if—

10           (1) the alien has enrolled full time at the edu-  
11           cational institution and is maintaining good aca-  
12           demic standing;

13           (2) the employer provides the educational insti-  
14           tution and the Secretary of Labor with an attesta-  
15           tion that the employer—

16                   (A) has attempted to recruit a citizen of  
17                   the United States to fill such position for a pe-  
18                   riod of not less than 3 months recruiting  
19                   United States; and

20                   (B) will pay the alien and other similarly  
21                   situated workers at a rate equal to not less  
22                   than the greater of—

23                           (i) the actual wage level for the occu-  
24                           pation at the place of employment; or

- 1 (ii) the prevailing wage level for the  
 2 occupation in the area of employment; and  
 3 (3) the alien will not be employed more than—  
 4 (A) 20 hours per week during the aca-  
 5 demic term; or  
 6 (B) 40 hours per week during vacation pe-  
 7 riods and between academic terms.

8 (b) DISQUALIFICATION.—If the Secretary of Labor  
 9 determines that an employer has provided an attestation  
 10 under subsection (a)(2) that is materially false or has  
 11 failed to pay wages in accordance with the attestation, the  
 12 employer, after notice and opportunity for a hearing, shall  
 13 be disqualified from employing an alien student under this  
 14 section.

15 **SEC. 604. TEMPORARY VISAS FOR GRADUATING STUDENTS.**

16 Notwithstanding any other provision of law, the Sec-  
 17 retary of Homeland Security shall grant a temporary non-  
 18 immigrant visa to an alien to permit the alien to remain  
 19 in the United States while awaiting the issuance of an em-  
 20 ployment based nonimmigrant visa if the alien—

- 21 (1) graduated with honors from an established  
 22 college or university in the United States while ad-  
 23 mitted to the United States pursuant to a visa  
 24 issued under subparagraph (F), (J), or (M) of sec-

1       tion 101(a)(15) of the Immigration and Nationality  
2       Act (8 U.S.C. 1101(a)(15));

3           (2) has a bona fide offer of employment from  
4       an employer who utilizes the Employment Manage-  
5       ment System described in section 218C of the Immi-  
6       gration and Nationality Act, as added by section  
7       401; and

8           (3) submits to the Secretary an application for  
9       such visa.

10   **SEC. 605. TRAVEL AUTHORIZATION.**

11       Notwithstanding any other provision of law, the Sec-  
12       retary of Homeland Security shall permit an alien attend-  
13       ing an established college or university in the United  
14       States to travel outside of the United States if—

15           (1) the alien is admitted to the United States  
16       pursuant to a visa issued under subparagraph (F),  
17       (J), or (M) of section 101(a)(15) of the Immigration  
18       and Nationality Act (8 U.S.C. 1101(a)(15));

19           (2) the purpose of such travel is to attend a  
20       meeting, seminar, lecture, or similar event in a field  
21       related to the alien’s field of study; and

22           (3) the alien submits to the Secretary a request  
23       for authorization for such travel not later than 30  
24       days prior to the alien’s proposed date of departure.

1 **SEC. 606. ADDITIONAL EMPLOYEES AND TECHNOLOGIES.**

2 (a) INCREASED EMPLOYEES.—During each of fiscal  
3 years 2007 through 2011, the Secretary of Homeland Se-  
4 curity shall, subject to the availability of appropriations  
5 for such purpose, increase by not less than 100 the num-  
6 ber of Homeland Security personnel dedicated to proc-  
7 essing applications for visas applied for pursuant to sub-  
8 paragraph (F), (J), or (M) of section 101(a)(15) of the  
9 Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

10 (b) IMPROVED PROCEDURES.—The Secretary of  
11 Homeland Security shall improve technology and auto-  
12 mated procedures to enhance visa clearance procedures for  
13 visas applied for pursuant to subparagraph (F), (J), or  
14 (M) of section 101(a)(15) of the Immigration and Nation-  
15 ality Act (8 U.S.C. 1101(a)(15)).

16 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
17 are authorized to be appropriated during each of fiscal  
18 years 2007 through 2011 such sums as may be necessary  
19 to carry out this section.

20 **TITLE VII—TRAVEL RESTRIC-**  
21 **TIONS FOR TEMPORARY VISI-**  
22 **TORS**

23 **SEC. 701. TRAVEL RESTRICTIONS.**

24 Section 214 of the Immigration and Nationality Act  
25 (8 U.S.C. 1184) is amended by adding at the end the fol-  
26 lowing new subsection:

1 “(s) The Secretary of Homeland Security—

2 “(1) may not prohibit an nonimmigrant admit-  
3 ted under section 101(a)(15)(B) from traveling up  
4 to 100 miles from an international border of the  
5 United States; and

6 “(2) may permit such a nonimmigrant to travel  
7 further from such a border.”.

8 **TITLE VIII—TEMPORARY**  
9 **AGRICULTURAL WORKERS**

10 **SEC. 801. SENSE OF THE SENATE ON TEMPORARY AGRICUL-**  
11 **TURAL WORKERS.**

12 It is the sense of the Senate that consideration of  
13 any comprehensive immigration reform during the 109th  
14 Congress should include reform for immigration laws re-  
15 lated to employment of agricultural workers.

○